# ARTICLE 6. SUPPLEMENTARY REGULATIONS

# Section 6.1. Application.

The following regulations apply throughout all Zoning Districts:

- (A) In no case shall the Zoning Board of Adjustment grant a use variance.
- (B) No structure or portion of any structure shall be placed or erected, and no vegetation shall be planted or allowed to grow in a manner which shall materially impede visibility between the heights of three feet and eight feet at street intersections in a triangular area formed by that point at which property lines extended would meet at a corner, for a distance of twenty-five (25) feet back along said property line or extension thereof in each direction, then by connecting those two points to form a triangle.
- (C) Maximum Height of Structures.
  - (1) There shall be no limit to the height of bona fide farm buildings other than dwelling units or other residential uses.
  - (2) There shall be no limit to the height of steeples on churches, transmitting towers and water tanks.
  - (3) For all buildings and structures for human occupancy, maximum height is forty feet (40'); however, if the building or structure is equipped with an internal fire suppression system, with a smoke or fire detection system, and with a fire alarm system, all complying with the North Carolina State Building Code, then for each additional foot of setback on all sides, measured on the ground from the lot line, one (1) additional foot of height is permitted.
  - (4) The height of a building shall be measured from the center of the finished grade at the front of a building or structure to the highest point of the roof. Strictly ornamental features such as belfries, parapets, roof screens and widows watches shall be limited to a maximum height of ten (10) feet above the highest point of the roof.
- (D) In no case shall more than one principal use or structure be permitted on a lot excepting for those Special Exceptions permissible by either the Board of Zoning Adjustment or the Planning Board; provided additional dwellings or structures shall be permitted on a lot in all districts provided that the following criteria are met:
  - (1) The lot or parcel must be at least 1 acre in size. One additional structure may be added for each additional 10 acres of land.

- (2) The lot must front on a State maintained street or approved, improved subdivision street with sufficient access to any additional structures.
- (3) Structures and dwellings must be located on the property such that the lot could be divided into additional lots with adequate square footage and setbacks as specified for the zone in which it is located.
- (4) Structures must each be provided with independent well and septic systems or independently connected to central water and sewer.
- (5) Special Exceptions as permissible by the Board of Adjustment are exempt for these requirements.
- (6) Bona Fide Farms are exempt or as stipulated under Permitted or Accessory Uses and Structures in the various Zoning Districts.
- (7) Cross reference to this provision shall be made in Article One, Section 1.6(C).
- (E) No portion of a lot, used in connection with an existing or proposed building, structure or use, which is necessary for compliance with the regulations of this Chapter, may be included as part of the lot requirement in connection with any other building, structure, or use.
- (F) Architectural features including cornices, eaves and gutters may project three feet into the required front and rear yard space.
- (G) Accessory structures shall not be erected in any required front or side yard, or within ten feet (10') of a rear yard line, except in the R-7500, R-6000, and SBR-6000 Zoning Districts where accessory structures may be erected within nine feet (9') of the rear yard line. Potable water well houses and TV reception discs are excluded from these requirements.
- (H) Height when used throughout this Chapter shall be measured from the grade of the center-line of the street upon which the lot faces, at the center-point of the width of the lot, not from the property line.
- (I) When any building or structure existing at the time of the effective date of this Chapter does not conform to all requirements and standards, the building or structure may be

enlarged or extended if the enlargement or extension complies with provision of this Chapter.

- (J) Open air non-conforming uses shall not be permitted to be enlarged, extended, or in any manner improved.
- (K) Buildings that are non-conforming due to the use of such building in the Zoning District in which located.
  - (1) In the case of a non-residential use in a Residential Zoning District, shall be permitted to convert to a residential use without having to conform to the standards and regulations of the Zoning District as to density, height and setbacks, and shall so achieve conforming status, and
  - (2) In the case of a residential use in a non-residential Zoning District, shall be permitted to convert to an office building without having to conform to the standards and regulations of the Zoning District as to height and setbacks, and shall so achieve conforming status, excepting this provision shall not apply to lands in the RU-I, Rural Industrial Zoning District.
- (L) The storage of junked or wrecked motor vehicles and boats is specifically prohibited in any Zoning District excepting where junkyards are clearly identified as a permitted or permissible use, or as a contingentally continuing permissible non-conforming use.
- (M) Yard sales are permitted in Residential Districts as long as they do not occur for longer than two days, four times a year, on the same lot.
- (N) Temporary fund raising activities are permitted in all Residential Districts as long as they do not occur on the same lot for longer than two weeks, once a year.
- (O) No building permit will be issued until a driveway permit is issued by the N.C. Department of Transportation, as to uses located adjacent to Major Thoroughfares as identified in the officially adopted Major Thoroughfare Plan. Development of any lot fronting on such a Major Thoroughfare must provide on-site maneuvering means so as to avoid any vehicles having to back into such Thoroughfare. Bona Fide Farms are exempt.

- (P) Manufactured homes constructed prior to July 1, 1976, shall be permitted under the terms of the particular Zoning District, if:
  - (1) The owner of same in applying for any form of permission such as a septic tank permit, shall file with application for same documentation to show the manufactured home was constructed in compliance with the Standard for Mobile Homes of the American National Standards Institute (ANSI 119.1), or
  - (2) The mobile home was located and set up (having its own electric utility connection) as another site within the boundaries of Brunswick County as of January 1, 1994.

In order that the Zoning Administrator may verify that the home is being moved from a pre-existing set-up in Brunswick County, a minimum of seven days notice shall be given to the Zoning Administrator before the unit can be moved to the site for which the permit is being requested.

- (Q) In the C-LD, Commercial Low Density Zoning District, when as of the effective date of this ordinance as a principal use there is a dwelling unit, such dwelling unit may be enlarged, replaced or rebuilt as long as such replacement or new construction meets all requirements of State and Federal law and of this ordinance.
- (R) In any Zoning District, on a lot or parcel not in compliance with the Zoning Ordinance due to more than one principle structure on the lot, manufactured homes existing prior to January 1, 1994 with electricity and sewer connections may be replaced one time if the proposed structure meets all other requirements of the ordinance.
- (S) All utility equipment and sub-stations with less than six hundred (600) square feet in size are exempt from minimum lot requirements in any zoning district as long as they meet the applicable yard requirements.
- (T) Where a lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety feet (90'), the minimum street frontage width requirements shall be forty feet (40').
- (U) All free-standing transmission towers, including television, radio, cellular or similar transmitting or receiving towers shall have a setback of two hundred fifty feet (250') from residentially zoned property and shall be located such that all supporting cables and anchors are contained within the property.

- (1) Any tower which is over two hundred fifty (250) feet in height shall provide a setback equal to the height of proposed tower. Where towers are adjacent to non-residentially zoned properties, the setback shall be equal to sixty (60) percent of the tower height.
- (2) Each tower may be accompanied by one unmanned maintenance or service structure not to exceed four hundred (400) square feet.
- (3) All non-conforming transmission towers existing as of the effective date of this ordinance may be replaced if damaged by natural causes.
- (V) In no case shall a permit be issued by any Brunswick County agency for a proposed use prior to documented project approval by all appropriate federal, state, local, and other agencies.

### Section 6.2. Non-Conformities.

### (A) Statement Of Intent.

This Zoning Ordinance was designed on the basis of the purposes reflected in Section 1.2 and in the various Zoning Districts, in the standards established, and in the supplementary regulations to seek the least possible harm from one use to other uses, and least possible harm between various uses.

Within the districts established by this Chapter there exist lots, structures, and uses of land and structures which were lawful before this Chapter was adopted, but which would be unlawful in the future under the terms of this Chapter.

It is the intent of this Chapter to permit identified non-conformities which create minimal harm to continue until removed by economic forces or otherwise, and to require discontinuation within a reasonable period of non-conformities which are harmful to the areas in which they are located. It is not the intent of this chapter to encourage the survival of non-conformities since it has been determined that they are incompatible with the character of the Districts involved, or to permit non-conformities to be enlarged upon, expanded, or extended. Existing non-conformities shall not be used to justify adding structures or uses prohibited elsewhere in the same District.

### (B) Non-Conforming Lots.

In any Zoning District in which dwelling units are permitted or permissible, notwithstanding limitations imposed by other provisions of this Chapter, except as provided below, a dwelling unit and customary accessory buildings may be erected on any lot of record or acreage parcel existing as of the effective date of this Chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are applicable in the District, providing that the building setbacks and

other requirements shall conform to the regulations for the District in which such lot is located.

In commercial and manufacturing Zoning Districts, if three (3) or more lots, or combinations or portions of lots equalling same, with continuous frontage on a street, between two intersecting streets, in single ownership and of record at the time of passage of this Chapter, do not meet the requirements for lot width and area as established, the lands involved shall be considered an undivided parcel for the purpose of this Chapter. No portion of said parcel shall be used which does not meet lot width and area requirements established. Where enforcement would result in unnecessary hardship, the property owner may apply to the Zoning Board of Adjustment for variance.

### (C) Non-Conforming Uses Of Land.

Lawful land uses not involving structures, or involving structures only to the extent of ten (10) percent or less of the area of the lot or ten (10) percent or less of the combined value of premises and structures, which exist as of the effective date of this Chapter to which such uses do not conform, may be continued subject to the following limitations:

- (1) No such non-conforming use shall be extended to occupy a greater area, nor to occupy any other portion of the premises than was occupied at the time nonconforming status was attached.
- (2) No structures shall be added on lands occupied by such uses.
- (3) Within ninety (90) days from the time non-conforming status attaches, all yards required by regulations for the district in which such use is located shall be cleared.
- (4) If such non-conforming use ceases for any reason for more than six (6) months, or is replaced by another conforming use, subsequent use shall conform to the regulations of the district in which such use is located and all other terms of this Chapter.

#### (D) Non-Conforming Structures.

Where a lawful structure exists as of the effective date of this Chapter which could no longer be built by reason of restrictions on area, lot coverage, height, or other characteristics of structure or location on the lot, such structure may be continued so long as it remains otherwise lawfully subject to the following provisions:

(1) No such structures may be enlarged or altered in a way which increases its non-conformity except as provided in (4). An addition to a non-conforming structure may be made, providing the addition meets the Zoning requirements of this Chapter.

- (2) Should such structure be damaged by any means to an extent of more than seventy-five percent (75%) of the current replacement value, it shall not be reconstructed or repaired except in conformity with the provisions of this Chapter. Should such structure be damaged to an extent of less than seventy-five percent (75%), but more than twenty-five percent (25%), of current replacement value, it may only be restored if the Zoning Board of Adjustment determines a variance to permit such restoration should be granted.
- (3) Should such structure be moved for any reason for any distance whatever, it shall conform to the regulations for the district in which it is relocated.
- (4) A structure which is non-conforming as to off-street parking may be remodeled or altered in a manner which does not increase its requirements for off-street parking; provided that if remodeling or alteration increase requirements for off-street parking, off-street parking shall be provided sufficient to meet the additional requirements created by the remodeling or alteration.
- (5) All non-conforming transmission towers existing as of the effective date of this ordinance may be replaced if damaged by natural causes.

# (E) Non-Conforming Uses Of Structures; Structures And Premises.

If a lawful use of a structure, or of structure and premises in combination, exists as of the effective date of this Chapter, which use is made no longer permissible under the terms of this Chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the District in which it is located except as provided in Section 6.1(K).
- (2) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use as of the effective date of this Chapter, except that alterations to dwelling units which would increase the density of use are prohibited, but no such use shall be extended to occupy any land outside such building.
- (3) Any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use, including such non-conforming uses as would be of higher density than the Zoning District in which situated, provided it

is determined by the Board of Adjustment by approval of an application for a Special Exception in the specific case that the proposed use is equally applicable or more appropriate to the District than the existing non-conforming use, subject to appropriate conditions and safeguards. Such permitted change does not make the proposed use conforming; it remains as non-conforming use subject to all regulations governing non-conformities. (See Section 6.1[K].)

- (4) If non-conforming use of a structure, or structure and premises, is discontinued for a continuous period of two (2) years, or for intermittent periods amounting to twenty-four (24) months in any four (4) year period, the use of the structure or structures and premises in combination shall thereafter conform to the regulations for the district in which the structure is located.
- (5) Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land, and such land may thereafter be used only for uses permitted or permissible in the district in which it is located.
- (6) Where a non-conforming use of structure, or structure and premises in combination, is changed to a conforming use, the non-conforming use shall not thereafter be re-established.
- (7) Where a non-conforming use involves operation of equipment or machinery, such equipment or machinery may be replaced; provided that the new equipment or machinery conforms in the characteristics of its operation to performance standards as established for the Commercial Manufacturing District.
- (8) Should such structure be damaged by any means to an extent of more than seventy-five (75) percent of the current replacement value, it shall not be reconstructed or repaired except in conformity with the provisions of this Chapter. Should such structure be damaged to an extent of less than seventy-five percent (75%), but more than twenty-five percent (25%) of the current replacement value, it may only be restored if the Board of Adjustment determines a Special Exception to permit such restoration should be granted.

### (F) Repairs And Maintenance; Maintaining Safe Condition.

Repairs and maintenance of non-conforming structures are permitted. Nothing in this Chapter shall be deemed to prevent the strengthening, altering or restoring to a safe condition of any building or part thereof declared to be unsafe by a building inspector or other County or State official charged with protecting the public safety, upon order of such official. This permission does not include remodeling except as provided in Section 6.1(K).

### (G) <u>Discontinuance Of Non-Conformities.</u>

Notwithstanding other provisions of this Chapter, certain non-conformities shall be discontinued after periods of time set forth below. This period of time begins upon the effective date of this Chapter. If the use is changed to a lesser use which has a longer period permitted, the new period will apply, but will be construed to have begun at the original date.

Upon application to the Zoning Board of Adjustment, the Board, may as a Special Exception, permit not more than one extension for not more than the time indicated. The date on which non-conformities listed must cease shall be set forth on the Certificate of Occupancy for each, and if extension is granted, the termination date of such extension shall be added to the Certificate of Occupancy.

The amortization of non-conforming uses of buildings shall be extended for a period of five (5) years beyond the state maturity of any mortgage existing and of record upon the premises as of the effective date of this Chapter.

### (1) Open-air non-conformities to be discontinued:

Non-Conformities	Districts	To Be Discon- tinued Within	Extension Permissible
Junkyards	R-7500 and R-6000	5 Years	1 Year
Automobile and other sales lots, outdoor sales areas, outdoor storage yards, for lumber, building materials, and contractors' equipment.	R-7500 and R-6000	5 Years	1 Year
Extraction of topsoil, sand, gravel, marl, shell, etc.	R-7500 and R-6000	5 Years	1 Year
Signs	All Zoning Districts	At time of destruction by the owner or his agent or by a natural disaster	None
Non-conforming fences and hedges impeding vision at intersections.	All Zoning	1 Year	90 Days

### (2) Non-conforming uses of buildings to be discontinued:

Non-Conform	ities Districts	To be Discontinued Within:	Extension Permissible
Industrial	R-7500 and R-6000	20 Years	3 Years
Commercial	R-7500 and R-6000	20 Years	3 Years
Residential	C-M, H-M and RU-I	10 Years	10 Years (See Note Below)

#### NOTE:

Residential, except a home or dwelling unit upon which homestead exemption is claimed, thus showing residence of the owner on the property, as long as there is no transfer of such property to other than an immediate heir. In the event such property ceases to be the homestead, or in the event of transfer of such property beyond the immediate heir of the owner as of the time of passage of this Chapter, then the above schedule of discontinuance is applicable, starting as of the date of such transfer or termination of homestead use.

### (H) Special Exceptions Which Are Not Non-Conforming Uses.

Any use for which a special exception is required, or for which a special exception may be granted as provided in this Chapter, in any District in which such use is provisionally permitted, shall not be considered a non-conforming use, but shall, without further action, be deemed a conforming use in such District.

Existing uses which by the terms of this Chapter would be permissible only as special exceptions are hereby declared existing, lawful uses requiring no further action.

### (I) <u>Variances Not Non-Conformities.</u>

In cases where the Zoning Board of Adjustment issues a variance, such variance shall not be considered a non-conformity.

For each amendment to this Chapter that creates a non-conformity, the timing of the Schedule of Discontinuance commences with the effective date of said amendment.

# Section 6.3. Buffering and Landscaping Requirements for Berms and for Yards in which Buffers are Required.

Buffer strips are designed to protect adjoining land uses, particularly residential, from the noise, heat, dust, lights, and aesthetic impacts from more intense land-uses. Buffer strips shall be required along property lines adjacent to a residential use and/or existing platted residential lots. The more intense land use shall be required to provide the buffer as part of its yard requirements. The following requirements shall be met for buffer strips and the yards in which buffers are required:

# (A) <u>Location Of Buffer Strips.</u>

Buffer strips shall be required to screen uses. Buffer strips shall also be required to screen any existing detached residential development from any attached housing development or mobile home park or high density development or planned development.

### (B) Width Of Buffer Strips.

The buffers shall have a base width equal to at least fifty percent (50%) of the required setback. In all cases the base of the buffer shall be equal to or greater than twenty feet (20').

# (C) Allowance for a Decrease in Setback with an Increase in Buffer Width.

The setback for structures may be decreased if the base width of the buffer strip is increased by the same amount.

### (D) Uses In The Buffer.

No activities shall occur in the buffer except for maintenance of the buffer and the installation and maintenance of water, sewer, electrical and other utility systems where the installation causes minimal disturbance of existing vegetation.

### (E) <u>Uses In The Rear And Side Yards Abutting A Residential Use.</u>

The following uses shall be shielded from view from the property line of the residential use by means of a seventy-five percent (75%) opaque wall.

- (1) Dumpsters or other trash holding areas.
- Outside storage areas.
- (3) Loading/unloading areas.
- (4) Heating/air conditioning units, including roof mounted units.
- (5) In addition, all lights shall be shielded in such a manner that light from the fixture will not directly radiate into the buffer strip or beyond.

# (F) Types Of Buffer Strips.

Buffer strips shall provide approximately seventy-five percent (75%) opacity. Buffer strips may be occupied only by natural and/or planted vegetation, berms and fencing, as specified below:

- Natural vegetation must be retained.
- One or more of the following means shall be used to supplement the natural vegetation as necessary or to provide an adequate buffer where no natural vegetation exists:
  - (a) Planted buffer strips The planted buffer strips shall be at least six feet (6') tall and give approximately seventy-five percent (75%) visual opacity within one (1) year of planting. Three (3) rows of planted materials shall be required.
  - (b) Combination planted buffer strip with artificial fencing:
    - (i) Artificial fencing shall be between six (6') to ten feet (10') in height.
    - (ii) If solid artificial fencing is used, two rows of planted materials shall be provided at a minimum height of three feet (3') at initial planting, and give at least fifty percent (50%) visual opacity of the fence at planting.
    - (iii) Permeable artificial fencing should give approximately seventyfive percent (75%) visual opacity of the fence within one (1) year of planting.
- (3) Combination berm with vegetation:
  - (a) An earthen berm may be used in conjunction with planted vegetation provided that the combined height of the berm and planted vegetation shall be at least six feet (6') and provide approximately seventy-five percent (75%) opacity within one year of planting.
  - (b) The slope of the berm shall be stabilized with vegetation and no steeper than 3:1. The height of the berm shall be six feet (6') or less, with a level or rounded area on top of the berm. The berm shall be constructed of compacted earth.

# (G) Additional Landscaping Requirements For Parking Lots.

Landscaping is required for parking lots for the purposes of reducing aesthetic impacts of paving or removing the natural vegetation from large areas; to reduce the noise, heat and dust associated with parking lots.

## (1) Applicability.

Landscaping shall be required for all off-street parking facilities with five (5) or more spaces or those areas twenty-five hundred (2500) square feet or more devoted for vehicular use. [Refer to F(2) above.]

### (2) Design Criteria.

Landscaping shall be required for parking lot perimeters and for parking lot interiors.

(3) Landscaping around parking lot area for street sides shall be a minimum width of one foot (1') and a maximum of three feet (3') in height within one (1) year of planting materials.

### (H) Common Tree and Shrub Species

### (1) Small Maturing Trees

Botanical Name C	Common Name
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Acer campestre Hedge maple
Carpinus betulus European hornbeam
Carpinus caroliniana American hornbeam
Cornus florida Flowering dogwood
Cornum kousa Kousa dogwood
Cercis canadensis Eastern redbud

Crataegus phaenopyrum Washington hawthorne

Eleganus angustifolia russian olive Eriobotrya japonica loquat

Halesia carolina Carolina silverbell

Hammamelis mollis Chinese witch-hazel llex

Fosteri Foster holly
Ilex opaca American holly
Ilex opaca hume Hume holly

Common Name

Ilex x attenuata savannahSavannah hollyKoelreutaria paniculataGolden rain-treeMagnolia soulangeanaSaucer magnoliaMagnolia stellataStar Magnolia

Malus floribunda Flowering crapapple

Ostrya virginiana Ironwood
Oxydendrum arboreum Sourwood

Prunus cerasifera pissardii Purpleleaf plum
Prunus serrulata kwanzan Kwanzan cherry
Prunus subhirtella pendula Weeping cherry
Prunus yedoensis Yoshino cherry

Prunus caroliniana Carolina cherry laurel

Pyrus calleryana Bradfordi Bradford pear Pyrus calleryana 'Redspire' Redspire pear Pyrus calleryana 'Capital' Capital pear

# (2) Shrubs

### **Botanical Name**

Abelia grandiflora
Aucuba japonica
Azalea hybrida
Azalea indica
Azalea obtusum Kaempferi
Bambusa multiplex

Glossy abelia
Japanese aucuba
Glenn dale azalea
Indian azalea
Kaempferi azalea
Hedge bamboo

Bambusa multiplex Hedge bamboo
Berberis julianae Wintergreen barberry
Berberis thunbergii Japanese barberry
Camellia japonica Camellia

Camellia sasanqua Sasanqua Camellia Chaenomeles speciosa Flowering quince

Cleyera japonica Cleyera

Euonymus alatus Winged euonymus Euonymus japonicus Evergreen euonymus

Eleagnus pungens Eleagnus Forsythia intermedia Forsythia Hammamelis virginiana Witch-hazel

Hydrangea quercifolia Oakleaf hydrangea llex aquifolium English holly

llex cornuta English holly
llex cornuta burfordi English holly
Burford holly

Ilex cornuta burfordi nana Ilex crenata 'convexa' Ilex crenata 'hetzi' Ilex crenata 'rotundifolia' Ilex "Emily Brunner"

Ilex glabra Ilex latifolia Ilex pernyi Ilex vomitoria

Jumperus chinensis pfitzeriana

Jumperus chinesis hetzi

Laurus nobilis

Ligustrum japonicum
Ligustrum lucidum
Ligustrum vicaryi
Loropetalum chinese
Mahonia bealei
Myrica cerifera
Nandina domestica
Osmanthus fortunei
Osmanthus frangrans

Osmanthus heterophyllus

Osmanthus heterophyllus rotundifolius

Photinia fraseri
Photinia serrulata
Pieris floribunda
Pieris japonica
Pittosporum tobira
Prunus laurocerasus

Podocarpus macrophyllus maki Prunus laurocerasus angustifolia

Pyracantha coccinea Raphiolepsis umbellata Spirea cantoniensis Spirea thunbergi Spirea prunifolia plena Spirea vanhouttei Taxus cuspidata

Viburnum rhytidophyllum

Viburnum tinus

Dward burford holly Convex japanese holly Hetzi japanese holly Roundleaf japanese holly

Emily brunner holly Inkberry holly Lusterleaf holly Perny holly Yaupon holly Pfitzer jumper Hetzi jumper Laurel

Japanese privet Glossy privet

Vicary golden privet

Loropetalum

Leatherleaf mahonia

Wax myrtle Nandina

Fortune tea olive
Fragrant tea olive
Holly osmanthus
Curly leaf tea olive
Fraser photinia
Chinese photinia
Mountain andromeda
Japanese andromeda

Pittosporum English laurel Podocarpus

Narrow leafed english laurel

Scarlet firethorn Yeddo-hawthorn Reves spirea Thunberg spirea Bridalwreath spirea Vanhoutte spirea Japanese yew

Leatherleaf viburnum Laurestinus viburnum